

ORDER NO. 3137

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Tony Hammond

Competitive Product Prices
Global Expedited Package Services 3 (MC2010-28)
Negotiated Service Agreement

Docket No. CP2016-53

ORDER APPROVING MODIFICATION TO
GLOBAL EXPEDITED PACKAGE SERVICES 3
NEGOTIATED SERVICE AGREEMENT

(Issued March 8, 2016)

I. INTRODUCTION

The Postal Service seeks to modify a Global Expedited Package Services 3 negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Modification.

¹ Notice of the United States Postal Service of Filing Modification to Global Expedited Package Services 3 Negotiated Service Agreement, February 26, 2016 (Notice). The modification is an attachment to the Notice (Modification).

In Order No. 2925, the Commission approved the Global Expedited Package Services 3 negotiated service agreement (Existing Agreement).² On February 26, 2016, the Postal Service filed notice that it has agreed to the Modification to the Existing Agreement. On February 29, 2016, the Commission issued an order reopening this docket to consider the Modification, appointing a Public Representative, and providing interested persons with an opportunity to comment.³

The Postal Service intends to notify the mailer of the effective date of the agreement within 30 days of receiving approval of the Modification from the Commission. Notice, Attachment 1 at 2. The Postal Service also filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3015.5. Notice, Attachment 2. The Postal Service asserts that the Modification will not impair the ability of the contract to comply with 39 U.S.C. § 3633. *Id.*

II. COMMENTS

Comments were filed by the Public Representative.⁴ No other person submitted comments. The Public Representative reviewed the Modification, the Existing Agreement, and the financial model filed under seal. PR Comments at 2. Based on that review, he concludes that the Existing Agreement, as modified, should result in an increase in cost coverage and should continue to satisfy 39 U.S.C. § 3633(a). *Id.*

III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

² See Order Approving Additional Global Expedited Package Services 3 Negotiated Service Agreement, December 24, 2015 (Order No. 2925).

³ Order No. 3118, Notice and Order Concerning Modification to a Global Expedited Package Services 3 Negotiated Service Agreement, February 29, 2016.

⁴ Public Representative Comments on Postal Service Notice Concerning Modification to a Global Expedited Package Services 3 Negotiated Service Agreement, March 1, 2016 (PR Comments).

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Modification revises several articles in the agreement to change the mailer's minimum commitment, allow use of Priority Mail Express International Service, and amend Annex 1 of the Existing Agreement. Notice at 1.

Based on a review of the record, the Commission finds that the Existing Agreement, as modified, should cover its attributable costs. Consequently, the Commission finds that the Modification should allow the Global Expedited Package Services 3 product to continue to comply with 39 U.S.C. § 3633(a)(2). For this reason, the Commission finds that the Modification should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the Modification is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). Accordingly, a preliminary review of the Modification indicates it is consistent with section 3633(a). The Commission will review the cost coverage of the Existing Agreement, as modified, the cost coverage of the Global Expedited Package Services 3 product, and the contribution of competitive products as a whole to the Postal Service's institutional costs in the Commission's Annual Compliance Determination to ensure that they continue to comply with 39 U.S.C. § 3633(a).

Other considerations. The Postal Service states that it will notify the mailer of the effective date of the agreement within 30 days of receiving approval of the Modification from the Commission. Notice, Attachment 1 at 2. The Existing Agreement, as modified,

is set to expire one year after the initial effective date unless, among other things, either party terminates the contract with 30 days' written notice to the other party or it is renewed by mutual agreement.⁵

If the Existing Agreement, as modified, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as modified.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Global Expedited Package Services 3 negotiated service agreement, as modified.
2. The Postal Service shall promptly notify the Commission of the effective date of the Modification.
3. The Postal Service shall notify the Commission if the Existing Agreement, as modified, terminates prior to the scheduled expiration date.

By the Commission.

Stacy L. Ruble
Secretary

⁵ See Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, December 15, 2015, Attachment 1 at 3. Should both parties agree to renew the agreement, any such renewal is required to follow the requirements of 39 U.S.C. § 3633 and the Commission's implementing regulations of 39 C.F.R. part 3015.